

Title	Sanctions (amend Cal. Rules of Court, Rule 227)
Summary	<p>Rule 227 would be amended to clarify that this rule provides for sanctions for violations of rules in the California Rules of Court relating to general civil cases, unlawful detainer cases, probate proceedings, proceedings in the appellate division of the superior court, and small claims cases. The definition of "person" in the rule would be expanded to include an insurance claims representative or any other person whose consent is necessary for the disposition of a case.</p>
Source	Civil and Small Claims Advisory Committee
Staff	<p>Patrick O'Donnell, Committee Counsel, 415-865-7665 patrick.o'donnell@jud.ca.gov</p>
Discussion	<p><i>Scope of Rule</i></p> <p>Rule 227 is intended to be a broad rule authorizing sanctions for violations of any of the civil trial court rules in the California Rules of Court. However, when it was amended in 2000, subdivision (a) on applicability was written to state that the rule "applies to the rules in the California Rules of Court, Title Two (Pretrial and Trial Rules)."</p> <p>Although most of the civil trial rules are located in Title Two, not all of them are. For instance, the rules relating to appeals from limited civil and small claims cases, which take place in the superior courts, are located in Title One, Chapters I–III. Various rules relating to civil proceedings in complex cases, small claims cases, and other proceedings are located in Title Five. And the rules relating to probate proceedings are in Title Seven.</p> <p>To clarify that persons may be sanctioned under rule 227 for violations of the trial court rules in the California Rules of Court relating to civil cases, and to provide well-defined procedures for imposing sanctions, rule 227 would be amended to state specifically that it applies to all rules relating to general civil cases and other identified types of cases.</p> <p><i>Definition of "person"</i></p> <p>The committee received a proposal to revise the definition of "person" in rule 227. It was pointed out that the current definition could be interpreted narrowly so as not to include an insurance claims representative or similar person who fails to appear at a mandatory settlement conference under rule 222. Rule 227 would be amended to clarify that such persons may be subject to sanctions for failure to</p>

comply with the rules. Comments are invited on (1) whether in subdivision (b) the word "includes" should be changed to "means," and (2) whether any other changes should be made to rule 227 to avoid ambiguity in its language and application.

The text of amended rule 227 is attached.

Attachment

PROPOSAL

Rule 227 of the California Rules of Court would be amended, effective January 1, 2004, to read:

Rule 227. Sanctions in respect to rules

- (a) **[Applicability]** This sanctions rule applies to the rules in the California Rules of Court, ~~Title Two, (Pretrial and Trial Rules)~~ relating to general civil cases, unlawful detainer cases, probate proceedings, civil proceedings in the appellate division of the superior court, and small claims cases.
- (b) **[Sanctions]** In addition to any other sanctions permitted by law, the court may order a person, after written notice and an opportunity to be heard, to pay reasonable monetary sanctions to the court or an aggrieved person, or both, for failure to comply with the applicable rules ~~in Title Two~~, unless good cause is shown. For the purposes of this rule, “person” includes a party, a party’s attorney, ~~or a witness, and an insurance claims representative or any other person whose consent is necessary for the disposition of the case.~~ If a failure to comply with ~~a an applicable rule in Title Two~~ is the responsibility of counsel and not of the party, any penalty ~~shall~~ must be imposed on counsel and ~~shall~~ must not adversely affect the party’s cause of action or defense thereto.
- (c) **[Notice and procedure]** Sanctions ~~shall~~ must not be imposed under this rule except upon notice in a party’s motion papers or upon the court’s own motion after the court has provided notice and an opportunity to be heard. A party’s motion for sanctions ~~shall~~ must (1) set forth the applicable rule ~~in Title Two~~ that has been violated, (2) describe the specific conduct that is alleged to have violated the rule, and (3) identify the attorney, law firm, party, ~~or witness, or other person~~ against whom sanctions are sought. The court on its own motion may issue an order to show cause that shall (1) set forth the applicable rule ~~in Title Two~~ that has been violated, (2) describe the specific conduct that appears to have violated the rule, and (3) direct the attorney, law firm, party, or witness to show cause why sanctions should not be imposed against them for violation of the rule.
- (d) **[Award of expenses]** In addition to the sanctions awardable under (b), the court may order the person who has violated ~~a an applicable rule in Title Two~~ to pay to the party aggrieved by the violation that party’s reasonable expenses, including reasonable attorney fees and costs, incurred in connection with the sanctions motion or the order to show cause.
- (e) **[Order]** An order imposing sanctions ~~shall~~ must be in writing and ~~shall~~ must recite in detail the conduct or circumstances justifying the order.

